

## Article 8: Housing

### Division 5: San Diego Housing Trust Fund

(*“San Diego Housing Trust Fund”*  
*added 4-16-1990 by O-17454 N.S.*)

#### §98.0501 Purpose and Intent

- (a) It is the intent of the City Council to create a Housing Trust Fund as a permanent and annually renewable source of revenue to meet, in part, the housing needs of the City’s very low, low, and median income households. That low income community includes all those households which earn less than eighty percent (80%) of the area median income, adjusted for family size; and also possess one or more of the following characteristics; (1) they are burdened by paying more than thirty percent (30%) of their gross income for housing costs; (2) they live in overcrowded conditions; (3) they live in substandard housing units; (4) they are homeless individuals and families; or (5) they consist of individuals and families with special housing needs such as the elderly, the developmentally disabled, the mentally ill, the physically disabled, single parent households and large families.
- (b) The Housing Trust Fund will serve as a vehicle for addressing very low, low, and median income housing needs through a combination of funds as provided for in this ordinance.
- (c) It is the intent of City Council to address a significant portion of the City’s current and projected very low, low, and median income housing need by leveraging every one dollar of City funds allocated to the Fund with two dollars of non-City subsidy capital funds.
- (d) It is further the intent of the Council to foster a mix of family incomes in projects assisted by the Fund and to disperse affordable housing projects throughout the City, in accordance with its Balanced Communities Policy and its intent to achieve a balance of incomes in all neighborhoods and communities so that no single neighborhood experiences a disproportionate concentration of housing units affordable to very low, low, and median income households.

- (e) It is the purpose and intent of this part to preserve and maintain renter and ownership housing units which are affordable to low, very low, and moderate income households and are located within the City, including federally assisted units and units located in mobile home parks.
- (f) It is the further intent of the City Council to foster and encourage the private sector to join with the public sector and the nonprofit sector to further the goals of this ordinance.

*(Amended 1-13-1997 by O-18371 N.S.)*

## **§98.0502 Definitions**

Unless the context requires otherwise, the words and phrases used in the Division shall have the meanings as defined below:

- (a) Affordable shall mean a housing unit that has an affordable housing cost.
- (b) Affordable housing cost shall mean (1) for ownership housing, a housing payment which includes loan principal, loan interest, property taxes, property and mortgage insurance, and homeowners association dues which allows a household with a gross income at not more than one hundred percent (100%) of the area median income to purchase a home and (2) for rental or cooperative housing, a housing payment including a reasonable allowance for utilities, which does not exceed thirty percent (30%) of not more than fifty percent (50%) of the area median income for very low income households and thirty percent (30%) of not more than eighty percent (80%) of the area median income for low income households.
- (c) Area Median Income shall mean the median income in the San Diego Standard Metropolitan Statistical Area adjusted for family size, as published by the United States Department of Housing and Urban Development.
- (d) Assisted Unit shall mean a housing unit that is affordable because of assistance from the Trust Fund.
- (e) Board shall mean the Board of Commissioners of the San Diego Housing Commission.
- (f) City shall mean The City of San Diego.
- (g) City Council shall mean the City Council of The City of San Diego.

- (h) City Manager shall mean the City Manager of The City of San Diego.
- (i) Commission shall mean the San Diego Housing Commission.
- (j) Executive Director shall mean the Executive Director of the Commission.
- (k) First-time Home Buyer shall mean a household which has not owned a principal residence within the most recent three (3) consecutive calendar years. The Board shall develop exemption guidelines for hardship cases.
- (l) Low Income means gross household income adjusted for family size which is at or below eighty percent (80%) of area median income, but more than fifty percent (50%) of area median income.
- (m) Median Income means gross household income adjusted for family size which is at or below the area median income, but more than eighty percent (80%) of area median income.
- (n) Overcrowded Household shall mean one which is housed so that more than one person per room of not less than seventy (70) square feet occupies the dwelling unit, not counting the kitchen and bathrooms as defined by The City of San Diego's Housing Regulations and the U.S. Department of Housing and Urban Development.
- (o) Program Plan shall mean the three-year program plan for the Housing Trust Fund that is developed pursuant to Section 98.0508.
- (p) Recipient shall mean a person or legal entity which receives funds from the Trust Fund other than the Commission.
- (q) Trust Fund shall mean the San Diego Housing Trust Fund account maintained by the City Auditor and Commission to fund the activities authorized by this Division.
- (r) Task Force shall mean the San Diego Housing Trust Fund Task Force appointed by the Commission which Task Force issued the San Diego Housing Trust Fund Task Force Final Report and Recommendations dated September, 1989.
- (s) Trustee shall mean a member of the Board of the San Diego Housing Trust Fund.

- (t) Very Low Income shall mean gross household income adjusted for family size which is at or below fifty percent (50%) of area median income.  
(Amended 1-13-1997 by O-18371 N.S.)

**§98.0503 Establishment of the San Diego Housing Trust Fund and Trust Fund Account**

- (a) There is hereby established a Fund to be known and denominated as the San Diego Housing Trust Fund. The Trust Fund shall consist of funds derived from the commercial development linkage fees to be paid to the City pursuant to Division 6, Article 8, Chapter 9 (Sections 98.0601 et seq.) of the San Diego Municipal Code; funds derived from revenues from the Transient Occupancy Tax as provided in Section 35.0128 of the San Diego Municipal Code and any other appropriations as determined from time to time by legislative action of the City Council. This Fund shall be administered by the Commission pursuant to the provisions of this ordinance, the program plan, the appropriation ordinances and Council policies applicable thereto.
- (b) There is also hereby established a San Diego Housing Trust Fund account. All funds received by the Trust Fund, either from special funds or general fund appropriations, shall be deposited in the Trust Fund account. Principal and interest from loan repayments, proceeds from grant repayments, forfeitures, reimbursements, and all other income from Fund activities, shall be deposited in the Fund. All funds in the account shall earn interest at least at the same rate as pooled investments managed by the Treasurer. All interest earnings from the account shall be reinvested and dedicated to the account. All appropriated funds in the Trust Fund account shall be available for Program expenditures as directed by the Commission. The City's Annual Appropriation Ordinance shall provide for the transfer of designated funds to the Housing Trust Fund. Transfers shall be made quarterly or upon direction of the City Manager. Designated funds shall accrue interest from the time of transfer to the Housing Trust Fund Account.

(Amended 8-3-1992 by O-17812 N.S.)

**§98.0504 Purpose and Use of Housing Trust Fund and Monies**

Funds in the Trust Fund shall be used solely for programs and administrative support approved by the City Council in the Program Plan to meet the housing needs of very low income, low income and median income households. These programs shall include those providing assistance through production, acquisition, rehabilitation and preservation. Funds in the Trust Fund shall be distributed to the target income groups according to the following guidelines:

- (a) No less than ten percent (10%) of the funds in the Trust Fund shall be expended to provide transitional housing for households who lack permanent housing;
- (b) Not less than sixty percent (60%) of the funds in the Trust Fund shall be expended to provide housing to very low income households at affordable housing costs.
- (c) No more than twenty percent (20%) of the funds in the Trust Fund shall be expended to provide housing to low income households at affordable housing costs;
- (d) No more than ten percent (10%) of the funds in the Trust Fund shall be expended to assist median income first-time home buyers purchase a home at an affordable housing cost with special consideration given to those proposals (1) involving neighborhoods that are predominately low income with substantial incidence of absentee ownership, or (2) which further goals of the Balanced Community Policy.

*(“Purpose and Use of Housing Trust Fund and Monies” added 4-16-1990 by O-17454 N.S.)*

#### **§98.0505 Term of Affordability**

- (a) Whenever funds from the Trust Fund are used for the acquisition, construction or substantial rehabilitation of an affordable rental or cooperative unit, the Commission shall impose enforceable requirements on the owner of the housing unit that the unit remain affordable for the remaining life of the housing unit, assuming good faith efforts by the owner to maintain the housing unit and rehabilitate it as necessary. The remaining life of the housing unit shall be presumed to be a minimum of fifty-five (55) years.
- (b) Whenever funds from the Trust Fund are used for the acquisition, construction or substantial rehabilitation of ownership housing, the Commission shall impose enforceable resale restrictions on the owner toward the end of keeping the housing unit affordable for the longest feasible time, while maintaining an equitable balance between the interests of the owner and the interests of the Commission.
- (c) For programs funded with funds from the Trust Fund which are not described in (a) or (b) above, the Commission shall develop appropriate mechanisms to ensure affordability which shall be described in the Program Plan.

- (d) The affordability restriction requirements described in this section shall run with the land and the Commission shall develop appropriate procedures and documentation to enforce these requirements and shall record such documentation in the Official Records of the Recorder of San Diego County.  
(*“Term of Affordability” added 4-16-1990 by O-17454 N.S.*)

**§98.0506 Three Year Program Plan**

Prior to the commencement of the fiscal year and annually thereafter, the Commission shall adopt a three year Program Plan and present it to Council for action. This document shall plan for the following three years. The Program Plan shall set forth with respect to the three-year period:

- (a) A description of all programs to be funded with funds from the Trust Fund specifying the intended beneficiaries of the program including the capacity building program for nonprofit organizations;
- (b) The amount of funds budgeted for loans or grants to recipients who agree to participate in Commission approved Programs;
- (c) The amount of funds budgeted for administrative expenses, exclusive of legal fees, subject to restrictions of Section 98.0520. All disbursements from the Fund shall be consistent with the Program Plan.

(*Amended 1-13-1997 by O-18371 N.S.*)

**§98.0507 Solicitation of Program Suggestions**

Each year, the Board shall solicit suggestions on the programs to be funded by the Trust Fund in the next fiscal year from any person who has indicated such a desire in writing to the Board.

(*Amended 1-13-1997 by O-18371 N.S.*)

**§98.0508 Preparation and Funding of Three-Year Program Plan**

Each year, the Board shall hold three (3) public hearings to solicit testimony from the general public on programs to be funded by the Trust Fund in the next fiscal year. A hearing shall be held in the North, South and Central areas of the City. The Board shall consider the suggestions from the neighborhood groups and the testimony from the public hearings, and cause a draft Program Plan to be prepared for its consideration. The Commission shall hold a public hearing to obtain public comments on the draft Program Plan, make modifications as it deems appropriate and submit it to the Council for action. The City Council shall consider the Program Plan as submitted by the

Commission, modify it if it so elects; approve it no later than July 31 of each year; and appropriate to fund the Program Plan from the Trust Fund or an other funding sources it chooses to consider for this purpose. These procedures and dates may be adjusted as necessary for the preparation of the first Program Plan after the enactment of this Division.

*("Preparation and Funding of Three-Year Program Plan," retitled 1-13-1997 by O-18371 N.S.)*

**§98.0509 Project Selection and Disbursement of Funds**

- (a) All projects considered for funding will be reviewed prior to Commission action by the local Community Planning Group or, in an area where there is no Planning Group, another community advisory group.
- (b) The Commission may notify potential recipients that funds from the Trust Fund are available to be distributed as loans or grants through issuing requests for proposals and notices of fund availability. In addition, the Commission shall affirmatively seek and create opportunities to increase the supply of assisted units through operation of its own programs.

*("Project Selection and Disbursement of Funds" added 4-16-1990 by O-17454 N.S.)*

**§98.0510 Support of Nonprofit Organizations**

The Commission shall ensure that a program to increase the capacity of nonprofit organizations to develop and operate housing for very low, low and median income households be included in the Program Plan to be submitted to the City Council. Through such a program, the Trust Fund may fund training programs for nonprofit organizations, and provide funds for administrative support. Furthermore, the Commission shall ensure that technical assistance related to the preparation of project proposals is made available to nonprofit organizations requesting such assistance.

*("Support of Nonprofit Organizations," retitled and amended 1-13-1997 by O-18371 N.S.)*

**§98.0511 Funding of Supporting Services**

Funds from the Trust Fund may be used in any manner, through loans, grants, or indirect assistance for the production and maintenance of assisted units and related facilities. Funds shall not be used however, for the operation of supporting services such as child care or social services unless:

- (a) The funds are used in connection with transitional housing or in neighborhoods where the addition of units will create the need for supportive services.
- (b) The recipient can demonstrate to the Commission that other funds are not available, and
- (c) No more than twenty-five percent (25%) of the loan, grant or assistance is designated for such services. Whenever such funds are disbursed from the Trust Fund, the Commission shall determine the terms and conditions which shall be attached to the grant or loan of those funds.

*(“Funding of Supporting Services” added 4-16-1990 by O-17454 N.S.)*

#### **§98.0512 Regulation of Recipients**

Every recipient shall enter into a written agreement with the Commission which sets forth the terms and conditions of the grant or loan. The agreement shall contain at least the following provisions:

- (a) The amount of funds to be disbursed from the Trust Fund.
- (b) The manner in which the funds from the Trust Fund are to be used.
- (c) The terms and conditions of the grant or loan.
- (d) The projected and maximum amount that is allowed to be charged in order for the assisted units to maintain an affordable housing cost.
- (e) A requirement that periodic reports be made to the Commission to assist its monitoring of compliance with the agreement.
- (f) A description of actions that the Commission may take to enforce the agreement.
- (g) Restrictions on the return on equity and developers fee recipients may receive, where applicable.

*(“Regulation of Recipients” added 4-16-1990 by O-17454 N.S.)*

#### **§98.0522 Publication of Program Documents**

The Commission shall publish such administrative rules and guidelines as are necessary and desirable to implement the programs approved by the City Council in the Program Plan.



*(“Publication of Program Documents” added 4-16-1990 by O-17454 N.S.)*

**§98.0523 Annual Report**

The Commission shall within ninety (90) days following the close of each fiscal year prepare and submit an annual report to the City Council on the activities undertaken with funds from the Trust Fund. The report shall specify the number and types of units assisted, the geographic distribution of units and a summary of statistical data relative to the incomes of assisted households, the monthly rent or carrying charges charged, the amount of state, federal and private funds leveraged, and the sales prices of ownership units assisted. The report shall specifically contain a discussion of how well the goals of the previous year’s Program Plan were met. The report shall also contain the information necessary to support the findings specified in Section 66001 of Chapter 5, Division 1 of Title 7 of the California Government Code. The report also shall discuss compliance with Sections 98.0527 and 98.0528.

*(“Annual Report” added 4-16-1990 by O-17454 N.S.)*

**§98.0524 Reserve Fund**

The Commission may establish and maintain a reserve fund account adequate to preserve the ability of the Trust Fund to take maximum advantage of unforeseen opportunities in assisting housing and to ensure prudently against unforeseen expenses. The amount to be maintained in this reserve fund shall be determined by the Commission. The Commission shall establish procedures for maintaining such a fund.

*(“Reserve Fund” added 4-16-1990 by O-17454 N.S.)*

**§98.0525 Financial Management**

- (a) The City Auditor shall maintain a separate Housing Trust Fund and any required related subsidiary funds and transfer the balance on deposit from such funds to the Commission on a quarterly basis upon the direction of the City Finance Director.
- (b) The Commission shall maintain and report within the Commission accounts a separate Housing Trust Fund and any required related subsidiary funds for all related financing transferred from the City and any related income. Such funds shall be accounted for and reported separately on the Commission’s annual audited financial report, and such funds shall be audited for compliance with the Housing Trust Fund Ordinance and related policies and regulations. The Commission shall also prepare any other reports legally mandated for financing sources of the Housing Trust Fund, such as AB1600 Appropriation Expenditure reporting requirements of the Housing Trust Fund impact fee

subaccounts provided for in Section 98.0605.  
(*"Financial Management" added 4-16-1990 by O-17454 N.S.*)

**§98.0526 Equal Opportunity Program**

The Commission shall apply its equal opportunity program to assure that contractors doing business with and/or receiving funds from the Trust Fund will not discriminate against any employee or applicant for employment because of race, color, religion, sex, handicap, age, or national origin and that equal employment opportunity is provided to all applicants and employees without regard to race, religion, sex, handicap, age, or national origin. The goals of the equal opportunity program are to ensure that all contracts achieve parity in the representation of women, minorities, and the handicapped in each contractor's work force with the availability of women, minorities, and the handicapped in the San Diego County labor market.

The program shall apply to all vendors, grantees, lessees, consultants, banks, and independent corporations under contract with the Commission.  
(*"Equal Opportunity Program" added 4-16-1990 by O-17454 N.S.*)

**§98.0527 Compliance with Antidiscrimination Laws**

Each contractor shall submit certification of compliance with Executive Order 11246, Title VII of the Civil Rights Act of 1964, as amended, the California Fair Employment Practice Act, and other applicable federal and state laws and regulations hereinafter enacted. Such certification shall be on forms to be provided by the Commission and shall be submitted at the time the contractor submits a bid or proposal.  
(*Retitled to "Compliance with Antidiscrimination Laws" on 1-13-1997 by O-18371 N.S.*)

**§98.0528 Commission Powers To Enforce**

The Commission may institute any action or proceeding it deems appropriate, judicial or otherwise, against recipients or other persons to carry out the provisions of this Division, to enforce the terms of any agreement related to the use of funds from the Trust Fund, or to protect the interest of the City, Commission, or intended beneficiaries of programs operated pursuant to this Division. The Commission may foreclose on property assisted with funds from the Trust Fund, seek to assume managerial or financial control over property financed with funds from the Trust Fund, directly or through a receiver, seek monetary damages or seek equitable or declaratory relief.  
(*Amended 1-13-1997 by O-18371 N.S.*)